

# **Exhibit 6A**

# Condensed Transcript of the Testimony of

**James R. Ketcham**

Volume I

**Date:** February 26, 2016

Universal North America Insurance Company v. Matthew A.  
Cathcart, et al.  
Case No. 2:13-cv-01767-RCJ-GWF

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1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA  
3  
4  
5 UNIVERSAL NORTH AMERICA )  
INSURANCE COMPANY, )  
6 )  
Plaintiff, )  
7 )  
vs. ) Case No.  
8 ) 2:13-cv-01767-RCJ-GWF  
MATTHEW A. CATHCART, )  
9 individually; CHERYLE T. )  
CATHCART, individually; and )  
10 JOHN DOES 1-100, inclusive; and )  
JANE ROES 1-20, inclusive, )  
11 )  
Defendants. )  
12 )  
13  
14  
15 DEPOSITION OF JAMES R. KETCHAM  
16 [as FRCP 30(b)(6) designee for Universal North America  
Insurance Company]  
17 Taken on Friday, February 26, 2016  
18 by a Certified Court Reporter  
19 At 9:09 a.m.  
Held at the offices of Judd J. Balmer  
20 6362 McLeod Drive, Suite 6  
Las Vegas, Nevada  
21  
22  
23  
24  
25 Reported by: Ellen A. Goldstein, CCR 829

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1 FRIDAY, FEBRUARY 26, 2016 - LAS VEGAS, NEVADA  
2 9:09 A.M.

3  
4 JAMES R. KETCHAM,  
5 called as a witness by and on behalf of the Defendants,  
6 was first duly sworn by the Certified Court Reporter  
7 and testified as follows:

8  
9 EXAMINATION

10 BY MR. BALMER:

11 Q Please state and spell your name for the record.

12 A **It's James R. Ketcham, K-e-t-c-h-a-m.**

13 Q What is your current home address?

14 A **4800 Waterbridge Down -- Waterbridge is one**  
15 **word -- Sarasota, Florida 34235.**

16 Q How long have you been at that address?

17 A **Approximately six years.**

18 Q Who is your current employer?

19 A **I'm self-employed.**

20 Q Doing what?

21 A **1099 work for a couple of independent adjusting**  
22 **firms.**

23 Q Mr. Ketcham, my name is Judd Balmer. I  
24 represent the Cathcart's concerning their claim with  
25 Universal. Do you understand that?

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1 A **Yes.**

2 Q You understand that the Cathcart's are litigants  
3 in a suit brought by Universal --

4 A **Yes.**

5 Q -- in federal court?

6 A **Yes.**

7 Q Mr. Ketcham, have you ever been deposed before?

8 A **Yes.**

9 Q How many occasions?

10 A **I would guess ten.**

11 Q When was your last deposition?

12 A **It was about four, five years ago.**

13 Q The oath that you've taken today is the same  
14 oath that you would take as if you were sitting in a  
15 courtroom. Do you understand that?

16 A **Yes.**

17 Q That means it's the same oath as if you were  
18 sitting next to a judge and in front of a jury offering  
19 testimony in the courthouse. Do you understand that?

20 A **Yes.**

21 Q The oath that you've taken requires you to tell  
22 the truth here today. Do you understand that?

23 A **Yes.**

24 Q Are you prepared to tell the truth here today?

25 A **Yes.**

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1 Q As we move forward, I'm going to ask you  
2 questions and I'll expect your best testimony and best  
3 responses. Do you understand that?

4 A **Yes.**

5 Q Is there any reason why we can't move forward  
6 today with you giving your best testimony?

7 A **No.**

8 Q Are you prepared to give your testimony today?

9 A **Yes.**

10 Q Have you prepared for your deposition?

11 A **Yes.**

12 Q How did you prepare for your deposition?

13 A **I looked through the file at Mr. Walt Connor's**  
14 **office.**

15 MR. CANNON: And also at Walt Cannon's office.

16 THE WITNESS: Cannon, I'm sorry.

17 BY MR. BALMER:

18 Q You looked through the file?

19 A **Yes.**

20 Q Are you prepared to testify today?

21 A **Yes.**

22 Q You're fully prepared to answer my questions?

23 A **The best I can.**

24 Q You're appearing today on behalf of Universal

25 North America Insurance Company as the witness to bind

Page 8

1 the company. Do you understand that?

2 A **Yes.**

3 Q And you understand that you're the witness to  
4 bind the company even though you don't work there  
5 anymore?

6 A **Yes.**

7 Q As we move forward, if there's a question you do  
8 not hear or understand, let me know please. I'm happy to  
9 repeat the question or rephrase it as many times as it  
10 takes for you to fully hear and understand my question,  
11 okay?

12 A **Okay.**

13 Q If you answer a question that is pending before  
14 you, I will assume that you understood the question that  
15 was asked of you then. Is that fair?

16 A **Yes.**

17 Q As we move forward today, I may ask you to  
18 estimate, but I don't want you to guess. Do you know the  
19 difference between an estimate and a guess?

20 A **Yes.**

21 Q Are you taking any medication that could  
22 influence your ability to recall events and testify  
23 truthfully?

24 A **No.**

25 Q Have you had any alcohol that would affect your



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1 ability to recall events and testify truthfully?  
 2 **A No.**  
 3 Q Is there any reason you can think of why we  
 4 can't move forward today with you giving your best most  
 5 truthful and most accurate testimony?  
 6 **A No.**  
 7 Q Do you promise that you'll be forthright in your  
 8 answers?  
 9 **A As best as I can.**  
 10 Q You brought with you some documents today, did  
 11 you not?  
 12 **A Yes.**  
 13 Q And one of those documents appears to be your  
 14 resume.  
 15 **A Yes.**  
 16 Q As well you brought with you today two binders  
 17 worth of documents. Have you reviewed those?  
 18 **A Yes.**  
 19 Q In general what are -- what are those two  
 20 binders?  
 21 **A In general they're file notes, estimates,**  
 22 **correspondence, suit papers, et cetera.**  
 23 Q Do the two binders comprise the claims file in  
 24 this case?  
 25 **A Yes.**

Page 10

1 Q You also brought with you a couple of separate  
 2 documents, both entitled "Claims Operating Policies and  
 3 Handling Guidelines"?  
 4 **A Yes.**  
 5 Q Do you have any other documents with you today?  
 6 **A No.**  
 7 Q I see there's a stack of documents to your  
 8 right. Are those Mr. Cannon's documents or are those  
 9 yours?  
 10 **A These are just duplicates of what's in the two**  
 11 **binders there.**  
 12 Q Have you made any marks on any of those papers  
 13 that sit there to your right?  
 14 **A Yes, uh-huh.**  
 15 Q All right. I'm going to need to look at those,  
 16 but we'll do that shortly.  
 17 But where did you get the stack of documents  
 18 that's rubber-banded to your right?  
 19 **A This was mailed to me from Mr. Cannon's office.**  
 20 Q When was that mailed to you?  
 21 **A Last week.**  
 22 Q I'm going to show you what we'll mark as  
 23 Exhibit 1. I know we're technically defendants, but I'm  
 24 going to go with 1. This is the Amended Notice of Taking  
 25 Deposition. Have you seen this document?

Page 11

1 **A Yes, I think so.**  
 2 Q The document required you to bring with you  
 3 certain documents today. Do you recall that?  
 4 **A Uh-huh.**  
 5 Q Is that a "yes"?  
 6 **A Yes.**  
 7 Q All right. As we move forward, I'll be asking  
 8 you questions and it's important that you answer in an  
 9 audible response, not an "uh-huh" or a "huh-uh," because  
 10 those don't come across well on the record. Do you  
 11 understand that?  
 12 **A Yes.**  
 13 Q So a verbal response, "yes," "no," or some other  
 14 response that the court reporter can take down the  
 15 testimony accurately. Is that fair?  
 16 **A Yes.**  
 17 Q I will also mention that following today's  
 18 proceedings you'll have an opportunity to review your  
 19 transcript, which will have all of my questions, all of  
 20 your responses, and any objections or questions that may  
 21 be made or asked by Mr. Cannon. Do you understand that?  
 22 **A Yes.**  
 23 Q Have you ever reviewed a deposition transcript  
 24 before?  
 25 **A Yes.**

Page 12

1 Q And you understand that you'll have an  
 2 opportunity to make some changes to that transcript and  
 3 your testimony if you see fit. Do you understand that?  
 4 **A Yes.**  
 5 Q However, you also probably understand, given  
 6 your experience in depositions, that if you do make a  
 7 substantive change on your testimony, that counsel can  
 8 comment on that at the time of trial and it would affect  
 9 your credibility. Do you understand how that can happen?  
 10 **A Yes.**  
 11 Q So although you have an opportunity to amend  
 12 your testimony at a later time in private away from my  
 13 ability to cross-examine you, you understand that today  
 14 is the time that I'm expecting your best, most accurate  
 15 and most truthful testimony?  
 16 **A Yes.**  
 17 MR. BALMER: We'll go ahead and attach the  
 18 deposition -- Amended Notice of Taking Deposition as  
 19 Exhibit 1.  
 20 (Defendants' Exhibit 1 was marked for  
 21 identification by the Certified Court Reporter.)  
 22 BY MR. BALMER:  
 23 Q So we've marked the Amended Notice of Taking  
 24 Deposition as Exhibit 1, and on page 2 there were some  
 25 documents that you were required to bring with you today.

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1 I'm just going to run through those and you tell me if  
 2 you brought them with you or not, okay?  
 3 **A Okay.**  
 4 Q Number one, "Universal North America Insurance  
 5 Company's entire claims file for this case." Did you  
 6 bring that with you today?  
 7 **A Yes.**  
 8 Q Is that the entire file that you brought with  
 9 you today?  
 10 **A Yes.**  
 11 Q Have you read through the materials that  
 12 comprise those binders before coming here today?  
 13 **A Yes.**  
 14 Q And can you confirm under oath, on behalf of  
 15 Universal North America Insurance Company, that the  
 16 materials that are set forth in those two binders  
 17 comprise the whole and complete claims file for the  
 18 Cathcart claim that's the subject of this litigation?  
 19 **A Everything that was available is here.**  
 20 Q What does that mean?  
 21 **A That means that's the entire file that I have.**  
 22 Q That you have. My question --  
 23 **A I mean that Universal has.**  
 24 Q All right. Is there something that you can  
 25 think of that was not available to produce as part of the

Page 15

1 **A Yeah, uh-huh.**  
 2 Q Any luck?  
 3 **A No. I couldn't find it.**  
 4 Q Did you ever provide that certificate of  
 5 clearance on the mold to your insureds, the Cathcarts?  
 6 **A No.**  
 7 Q Other than the certificate of clearance on the  
 8 mold that you couldn't find in the claims file, what  
 9 other claims-file materials, whether it be electronic or  
 10 in paper format or audio or video, is there that is not  
 11 present in the claims file today?  
 12 **A Everything should be there.**  
 13 Q So other than the certificate of clearance on  
 14 the mold, if it's not in the claims file, it didn't  
 15 happen; is that right?  
 16 MR. CANNON: Objection to the formation,  
 17 argumentative.  
 18 Go ahead.  
 19 THE WITNESS: It just means I can't find it.  
 20 BY MR. BALMER:  
 21 Q Are you the one that put together the claims  
 22 file?  
 23 **A No.**  
 24 Q Who put together the claims file?  
 25 **A Not sure. Someone at Universal.**

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1 claims file today?  
 2 **A The only thing I can think of is a certificate**  
 3 **of clearance on the mold.**  
 4 Q Certificate of clearance on the mold?  
 5 **A Uh-huh.**  
 6 Q By whom?  
 7 **A I think it was -- I'm not sure.**  
 8 Q Do you have any credentialing in mold?  
 9 **A No.**  
 10 Q You're not an industrial hygienist, are you?  
 11 **A No.**  
 12 Q When you say that a document that may be lacking  
 13 from the two binders of claims file that you brought  
 14 today would be a certificate of clearance on the mold,  
 15 can you be more specific?  
 16 **A I remember getting a note in the file saying I**  
 17 **received some kind of clearance for the mold, and I**  
 18 **thought there was a certificate that goes with it but I**  
 19 **could never find it.**  
 20 Q At what point in time were you notified that  
 21 there was a certificate of clearance for the mold, as you  
 22 say?  
 23 **A That's what I was looking for in the file notes.**  
 24 Q Before we started, that's what you were looking  
 25 for?

Page 16

1 Q When did you leave Universal?  
 2 **A October 16th, 2015.**  
 3 Q Are you aware that I've been asking to take your  
 4 deposition for about ten months now?  
 5 **A No.**  
 6 Q So at the time that I started trying to get  
 7 dates for your deposition about ten months ago, you were  
 8 still with the company; is that true?  
 9 **A Ten months ago, yes, I was still with the**  
 10 **company.**  
 11 Q And so you were with the company during a large  
 12 part of the litigation that we're here to talk about  
 13 today; is that right?  
 14 **A Yes.**  
 15 Q And you never put together the complete claims  
 16 file and provided that to counsel before you left the  
 17 employ of Universal --  
 18 **A No.**  
 19 Q -- in October?  
 20 **A No.**  
 21 Q Why not?  
 22 **A Because it was in litigation and it was in the**  
 23 **legal department.**  
 24 Q So do you believe that was the responsibility of  
 25 someone in the legal department, to put together the



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1 entire claims file and produce that in litigation?  
 2 **A Yes.**  
 3 Q In other words, that's not your responsibility;  
 4 it's somebody else's?  
 5 **A Somebody else's.**  
 6 Q And who is that somebody else that failed to  
 7 produce the claims file until recently?  
 8 **A Probably the person that was in charge of the**  
 9 **file, Mark in litigation. I cannot think of his last**  
 10 **name right now.**  
 11 Q Mark in litigation?  
 12 **A Yes.**  
 13 Q Is there a separate department at Universal --  
 14 **A Yes.**  
 15 Q -- that's litigation?  
 16 **A Yes.**  
 17 Q What is that department called specifically?  
 18 **A The litigation department.**  
 19 Q Tricky.  
 20 **A Uh-huh, yes.**  
 21 Q Is Mark a lawyer?  
 22 **A No.**  
 23 Q An adjustor?  
 24 **A He's an examiner.**  
 25 Q What's the difference between an examiner and an

Page 19

1 **A That's in those files there, the two files.**  
 2 Q So everything that I just read in No. 2 would be  
 3 comprised also in No. 1 and that's included in the two  
 4 binders that you brought with you today?  
 5 **A Yes.**  
 6 Q Except for the certificate of clearance on mold?  
 7 **A Uh-huh.**  
 8 Q Is that a "yes"?  
 9 **A Yes. Sorry.**  
 10 Q No. 3 is, "Deponent's current resume or  
 11 curriculum vitae." You brought that with you, didn't  
 12 you?  
 13 **A Yes, I did.**  
 14 Q And I'll show you the document that you -- that  
 15 appears to me to be responsive to that request. What is  
 16 this document I'm showing you?  
 17 **A It's my resume.**  
 18 Q Okay. When was the last revision to this  
 19 resume?  
 20 **A Last week.**  
 21 Q Did you revise your resume for purposes of this  
 22 deposition?  
 23 **A Yes.**  
 24 Q Why did you do that?  
 25 **A I updated it.**

Page 18

1 adjustor?  
 2 **A Not too much. It's a higher level than an**  
 3 **adjustor.**  
 4 Q What were you?  
 5 **A I was a unit manager.**  
 6 Q Is that an adjustor?  
 7 **A Yes.**  
 8 Q So Mark sits above you in terms of hierarchy of  
 9 adjustor versus examiner?  
 10 **A In -- they're two separate departments, so the**  
 11 **claims department and he's an examiner in the litigation**  
 12 **department. That's all I can tell you.**  
 13 Q So Mark in the litigation department is an  
 14 examiner that looks after the interest of Universal in  
 15 terms of the litigation --  
 16 **A Yes.**  
 17 Q -- is that right?  
 18 **A Yes.**  
 19 Q And you as the adjustor look after the interest  
 20 of Universal in terms of the claim?  
 21 **A Yes.**  
 22 Q Let's go on to No. 2 on our notice: "All  
 23 correspondence, including claims and electronic data,  
 24 regarding this case." Have you brought all that with you  
 25 today?

Page 20

1 Q What did you update your resume to include?  
 2 **A That everything was the same from Universal**  
 3 **North America on down, but I added what I'm currently**  
 4 **doing now as a 1099 field adjustor.**  
 5 Q Prior to leaving Universal North America, when  
 6 was the last time that you had updated your resume?  
 7 **A Probably sometime between the time I left**  
 8 **Universal October 16th and probably December of 2015.**  
 9 Q When you left Universal on October 16, 2015,  
 10 were you leaving for another job?  
 11 **A No.**  
 12 Q You didn't have a job lined up when you left  
 13 Universal?  
 14 **A No, I didn't.**  
 15 Q When did you start working as a 1099 employee  
 16 for Johns --  
 17 **A Johns Eastern.**  
 18 Q -- Eastern Company?  
 19 **A January 7th, 2016.**  
 20 Q So you were out of work for about three months,  
 21 weren't you?  
 22 **A About two and a half.**  
 23 Q Is that a "yes"?  
 24 **A Yes.**  
 25 Q Why did you leave Universal on October 16, 2015?

Page 21

1 A Because I'm 66 years old and I wanted to slow  
2 down.

3 Q But you didn't retire, because you got another  
4 job; right?

5 A Correct.

6 Q What was it about working at Universal that made  
7 you believe that at 66 you needed to slow down?

8 A I think it was a position that I did not want to  
9 continue the rest of my career with.

10 Q So it wasn't so much wanting to slow down; it  
11 was that you were unhappy with the position and wanted to  
12 do something else. Is that right?

13 MR. CANNON: Objection; argumentative.

14 THE WITNESS: No.

15 BY MR. BALMER:

16 Q Were you let go by Universal?

17 A I resigned.

18 Q Were you asked to resign from Universal?

19 A No.

20 Q What was the -- did you resign by way of letter?

21 A Yes.

22 Q Do you have a copy of that letter?

23 A No.

24 Q Tell me the contents of your resignation letter,  
25 please.

Page 22

1 A It was a one-sentence letter saying that I  
2 resign my position at Universal North America on  
3 such-and-such a date.

4 Q Was that October 16, 2015?

5 A No. I believe -- you know, I can't remember.

6 It was about two weeks after that that they decided, for  
7 security reasons, to let me go on the 16th -- no, I take  
8 that back. I take that back. It was October 16th I  
9 resigned officially, but they let me go a couple weeks  
10 early.

11 Q Were you expecting them to let you go?

12 A No.

13 Q So you got there and you were locked out?

14 A They asked me for security reasons, because I  
15 handled so much financial dealings with the company, that  
16 they asked me to leave early.

17 Q So you were asked to leave Universal before you  
18 were ready to leave Universal. Is that true?

19 MR. CANNON: Objection; that mischaracterizes.

20 Go ahead.

21 THE WITNESS: I was asked to leave before my official  
22 resignation date.

23 BY MR. BALMER:

24 Q And you believe it was approximately two weeks  
25 before your official resignation date?

Page 23

1 A I can't remember. It's two or three weeks.

2 Q Did you apply for unemployment after you left  
3 Universal?

4 A No.

5 Q So your last day at Universal would have been  
6 two weeks before October 16, 2015?

7 A Two or three weeks, yes.

8 Q Was it two or was it three weeks?

9 A I think it's three weeks.

10 Q Before you said two weeks, so now you're saying  
11 three weeks?

12 A I said between two and three weeks; and as I  
13 recall now, my memory says it was three weeks.

14 Q Thank you.

15 Did Universal provide you with any sort of  
16 parachute?

17 A No. Just my saved-up vacation.

18 Q When you left Universal, who was your  
19 supervisor?

20 A Otto Kieslich.

21 Q Can you spell that please for the court  
22 reporter.

23 A K-e-i-s-c-h-l [sic], Kieslich. It's a weird  
24 name.

25 Q In looking through some of the claims notes, I

Page 24

1 see that Mr. Kieslich was reviewing the Cathcart file on  
2 occasion. Is that right?

3 A Yes.

4 Q In fact he was involved with the adjustment of  
5 the claim, wasn't he?

6 A He just reviewed and offered some suggestions.

7 Q So your testimony is -- other than being asked  
8 to leave three weeks early, it's your testimony that your  
9 departure from Universal was voluntary?

10 A Yes.

11 Q Did Mr. Kieslich express or imply to you that  
12 you should resign?

13 A No.

14 Q Did your resignation have anything to do with  
15 any sort of evaluation of your performance?

16 A No.

17 Q Are you doing now what you were doing at  
18 Universal?

19 A No.

20 Q We'll go ahead and mark your resume as the next  
21 exhibit in line, which is No. 2.

22 (Defendants' Exhibit 2 was marked for  
23 identification by the Certified Court Reporter.)

24 MR. BALMER: We'll come back to this.

25 Q Let's move on to No. 4 on the notice, which is



Page 25

1 Exhibit 1, "All Universal North America Insurance  
2 Company's claims manuals utilized in the investigation,  
3 adjustment and handling of the claims involved in this  
4 action." Did you bring those documents with you today?  
5 **A Yes.**  
6 **Q** And are those the documents that are these two  
7 documents?  
8 **A Yes.**  
9 **Q** Are these the same document or is one -- are  
10 they different?  
11 **A One is dated two thousand -- was made in 2012**  
12 **and one was updated 2013.**  
13 **Q** I see. So is it the same -- the same general  
14 underlying Claims Operating Policies and Handling  
15 Guidelines, just one is the 2012 version and the other is  
16 a 2013 version?  
17 **A Correct.**  
18 **Q** Is there also a 2014 version?  
19 **A Not that -- I don't believe so.**  
20 **Q** So the 2013 revision would be the one that would  
21 be in effect in 2014?  
22 **A To the best of my knowledge, yes.**  
23 **Q** And the 2013 revision would also be the Claims  
24 Operating Policies and Handling Guidelines in effect for  
25 2015?

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1 **A Yes.**  
2 **Q** At the time that you left in October of 2015,  
3 was this document that is entitled "Claims Operating  
4 Policies and Handling Guidelines" with the 2013 written  
5 in the upper right-hand corner -- was that the operative  
6 Claims Operating Policies and Handling Guidelines?  
7 **A Yes.**  
8 **Q** Does Universal still do business in Nevada?  
9 **A Yes.**  
10 **Q** Still writes homeowners' policies?  
11 **A Yes.**  
12 **Q** What other types of policies does Universal  
13 write in Nevada?  
14 **A Just HO3s, homeowners'.**  
15 **Q** Prior to today, when is the last time you were  
16 in Nevada? Have you ever been here?  
17 **A Yes.**  
18 **Q** When was the last time you were here?  
19 **A I have to think about that.**  
20 **Q** Take your time.  
21 **A Put it this way: It's been so long ago I can't**  
22 **remember. Probably 20 years ago.**  
23 **Q** The work that you were doing at Universal  
24 involved handling claims that were situate in Nevada. Is  
25 that true?

Page 27

1 **A Yes.**  
2 **Q** Annually how many claims that were situate in  
3 Nevada did you handle while you were at Universal?  
4 **A Say that again.**  
5 **Q** During your tenure at Universal, can you provide  
6 to me an average annual number of claims that were  
7 situate in Nevada that you handled while you worked at  
8 Universal?  
9 **A I supervised probably somewhere around 200 --**  
10 **they fluctuated, so it's between 200 and 250 claims per**  
11 **year.**  
12 **Q** Out of Nevada?  
13 **A Out of Nevada.**  
14 **Q** And you hadn't been here for 20 years?  
15 **A Huh-uh, no.**  
16 **Q** What about, is there another -- strike that.  
17 Were you the only adjustor handling claims that  
18 were situate in Nevada during your time at Universal?  
19 **A No.**  
20 **Q** There were others?  
21 **A Yes.**  
22 **Q** Was there a department of adjustors handling  
23 Nevada claims?  
24 **A Yes.**  
25 **Q** Where is Universal located?

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1 **A Sarasota, Florida.**  
2 **Q** Where is that generally in Florida?  
3 **A It's about 45 minutes south of Tampa. It's the**  
4 **next biggest town on the west coast.**  
5 **Q** That's a long ways from Nevada, isn't it?  
6 **A Yes.**  
7 **Q** How long did it take you to fly here?  
8 **A Five hours.**  
9 **Q** During the time that you were at Universal and  
10 handling Nevada claims, did you have any Universal  
11 employees on the ground in Nevada handling claims?  
12 **A No.**  
13 **Q** How long were you with Universal?  
14 **A From January -- almost four years, January 9th,**  
15 **2011 through October 16th, 2015.**  
16 **Q** So from January 9, 2011 to October 16, 2015,  
17 Universal, that's based in Tampa -- or near Tampa --  
18 Florida, did not maintain any physical employee adjustor  
19 in the state of Nevada. Is that true?  
20 **A Correct.**  
21 **Q** Did you have any input in putting together this  
22 2013 Claims Operating Policies and Handling Guidelines?  
23 **A No.**  
24 **Q** Who put this Claims Operating Policies and  
25 Handling Guidelines together?

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1 A A gentleman by the name of Rich Hanlon. He was  
 2 a director of claims at the time.  
 3 Q Is he still with Universal?  
 4 A No.  
 5 Q When did he leave?  
 6 A To the best of my knowledge, about two years  
 7 ago.  
 8 Q Has Universal undergone some downsizing in  
 9 recent years?  
 10 A No.  
 11 Q Is it growing?  
 12 A It's about the same.  
 13 Q Tell me about the office building where  
 14 Universal is based in Sarasota, Florida.  
 15 A It's at 101 Paramount Parkway, second floor, and  
 16 it occupies approximately half of the second floor.  
 17 Q How many square feet would you estimate?  
 18 A Probably 7-, 8,000 square feet.  
 19 Q Are all of Universal's corporate activities  
 20 based in that 101 Paramount Parkway building in Sarasota,  
 21 Florida?  
 22 A That is what they consider the home office; and  
 23 there's another underwriting department in California,  
 24 Sacramento, California, as well as claims department in  
 25 Sacramento, California; and there's also an underwriting

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1 A Correct.  
 2 Q When Universal wrote the homeowners insurance  
 3 policy for the Cathcart residence, prior to writing that  
 4 policy, did Universal underwriting inspect the Cathcart's  
 5 home?  
 6 A Not an underwriter, but I would say we usually  
 7 do.  
 8 Q And if the underwriting department for Universal  
 9 had inspected the Cathcart home at the time that the  
 10 Cathcart took out the Universal insurance policy, given  
 11 the fact that Universal in fact produced a policy for the  
 12 Cathcart, does that demonstrate that Universal found the  
 13 Cathcart's home to be an acceptable risk?  
 14 A Yes.  
 15 Q Did you see anything in the claims file that  
 16 would indicate anything other than the Cathcart's home  
 17 being an acceptable risk to Universal?  
 18 A No, I didn't.  
 19 Q Did you see anything in the claims file, from  
 20 underwriting or otherwise, that demonstrated any  
 21 documented defects with the Cathcart home?  
 22 MR. CANNON: Objection; foundation.  
 23 Go ahead.  
 24 THE WITNESS: I don't recall any.  
 25 ///

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1 building in Fort Worth -- I believe it's Fort Worth --  
 2 Texas.  
 3 Q So there's a claims-handling office for  
 4 Universal in Sacramento?  
 5 A Yes.  
 6 Q Why were you handling Las Vegas, Nevada claims  
 7 out of Sarasota, Florida?  
 8 A At the time this claim was made, there was no  
 9 claims operation in California.  
 10 Q All right. So that's -- the claims operation in  
 11 Sacramento is new?  
 12 A New.  
 13 Q Since when?  
 14 A Oh, again this is guessing: A year and a half  
 15 ago.  
 16 Q At the time of the Cathcart's covered water  
 17 loss, there was no claims department in California; is  
 18 that right?  
 19 A Correct.  
 20 Q Was there an underwriting office in California  
 21 at the time that the Cathcart were insured with  
 22 Universal?  
 23 A Yes.  
 24 Q It was just later that they added the claims  
 25 portion?

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1 BY MR. BALMER:  
 2 Q What was the loss date for the Cathcart water  
 3 loss?  
 4 A I believe it was May 12th of 2012.  
 5 Q Are you sure?  
 6 A No, I'm not. The loss date, date of loss, I  
 7 have to get over here.  
 8 Q Are you looking at something to refresh your  
 9 memory?  
 10 A Yes.  
 11 Q What are you looking at?  
 12 A The file -- the two files I brought for the  
 13 deposition.  
 14 Q All right. Please do.  
 15 A Okay. May 22nd, 2012.  
 16 Q Was there an insurance policy --  
 17 A No -- I'm sorry -- May 21st, 2012.  
 18 Q On May 21, 2012, did the Cathcart have in force  
 19 with Universal a homeowners insurance policy?  
 20 A Yes.  
 21 Q And what were the -- what was the policy date of  
 22 the policy that governed the Cathcart claim?  
 23 A The effective dates were March 11th, 2012 to  
 24 March 11, 2013.  
 25 Q Recently counsel for Universal produced an



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1 insurance policy that was 2011 to 2012. Does that  
 2 insurance policy have any applicability to the Cathcart's  
 3 claims?  
 4 **A Yes.**  
 5 Q What is the applicability?  
 6 **A From -- say that again. From two thousand --**  
 7 MR. CANNON: '11 to '12.  
 8 MR. BALMER: 2011 to 2012.  
 9 THE WITNESS: No. That policy would have expired on  
 10 March of 2012.  
 11 BY MR. BALMER:  
 12 Q The insurance policy that was produced recently  
 13 by counsel for Universal was for the policy period  
 14 March 11, 2011 through March 11, 2012. Is there any  
 15 applicability for that insurance policy to the Cathcart's  
 16 claim of May 21, 2012?  
 17 **A Yes.**  
 18 Q What is that?  
 19 **A That's a policy that covers their dwelling and**  
 20 **personal property and additional living expense.**  
 21 Q The March 11, 2011 to March 11, 2012 policy is  
 22 the one that covers the claim for May of 2012?  
 23 **A No.**  
 24 Q Okay. So let me ask it again.  
 25 **A I'm sorry.**

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1 Q There was an insurance policy produced recently  
 2 by counsel for Universal that had the policy period  
 3 March 11, 2011 through March 11, 2012. My question to  
 4 you is, does that policy have any applicability to the  
 5 Cathcart claim with a date of loss May 21, 2012?  
 6 **A No.**  
 7 Q Thank you.  
 8 Is there any notation in the claims or  
 9 underwriting files for Universal that, prior to May 21,  
 10 2012, the Cathcart home had any water damage?  
 11 **A No.**  
 12 Q Is there any notation or information in the  
 13 claims file or underwriting file for Universal that,  
 14 prior to May 21, 2012, the Cathcart home had any mold  
 15 contamination?  
 16 **A No.**  
 17 Q Let's talk a little bit about your background.  
 18 Do you have any advanced degrees? In other  
 19 words, do you hold any Ph.D.'s in anything?  
 20 **A No.**  
 21 Q Do you hold any Master's degrees in anything?  
 22 **A No.**  
 23 Q Do you hold any Bachelor's level degrees in  
 24 anything?  
 25 **A Yes, a BS in business administration.**

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1 Q From what institution?  
 2 **A Bradley University.**  
 3 Q Where is Bradley located?  
 4 **A Peoria, Illinois.**  
 5 Q Are you from Illinois?  
 6 **A Yes.**  
 7 Q When did you obtain your Bachelor's level  
 8 degree?  
 9 **A 1975.**  
 10 Q After receiving your Bachelor's degree, did you  
 11 do any postgraduate studies?  
 12 **A No.**  
 13 Q Looking at your resume, there's indication here  
 14 that you served as a board member of Baywood Colony  
 15 Condominiums. Does that have any applicability to your  
 16 insurance work?  
 17 **A No.**  
 18 Q It also -- your resume also indicates that you  
 19 were a board member of Hacienda Del Mar Condominium.  
 20 Does that have any applicability to your insurance work?  
 21 **A Yes. I was in charge of securing insurance for**  
 22 **a property.**  
 23 Q You weren't in charge of doing any sort of  
 24 underwriting or claims for Del Mar Condominium; right?  
 25 **A Right.**

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1 Q Do you hold some sort of credentialing as an  
 2 Xactimate trainer?  
 3 **A No.**  
 4 Q On your resume it indicates you were an  
 5 Xactimate trainer. Is that just something you call  
 6 yourself?  
 7 **A Yes.**  
 8 Q There's no certification of any kind that backs  
 9 that up; is that true?  
 10 **A That's true.**  
 11 Q Are you a member of any insurance-related  
 12 organizations?  
 13 **A No.**  
 14 Q At the time that you handled work on the  
 15 Cathcart claim, were you a member of any  
 16 insurance-related organization?  
 17 **A No.**  
 18 Q From 2012 forward, have you been a member of any  
 19 organization?  
 20 **A No.**  
 21 Q Have you done any coursework with the Insurance  
 22 Institute?  
 23 **A Yes.**  
 24 Q What coursework have you done?  
 25 **A I have a designation as AIC, Associate in**



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1 **Claims. I've also taken some courses for the CPCU.**  
 2 Q Are you a Chartered Property Casualty  
 3 Underwriter?  
 4 A **No.**  
 5 Q What coursework have you done toward the CPCU?  
 6 A **I've done three of them and I cannot remember**  
 7 **the names of them right now.**  
 8 Q How many are there altogether?  
 9 A **There's now eight.**  
 10 Q And you don't remember which three of the eight  
 11 that you did?  
 12 A **No, I don't.**  
 13 Q How long ago was that?  
 14 A **Oh, probably -- long time ago, ten years ago.**  
 15 Q What insurance company were you working for at  
 16 the time that you completed the three of the units  
 17 towards your CPCU?  
 18 A **I probably did a couple at Great Central**  
 19 **Insurance and one at FCCI.**  
 20 Q You don't have any recollection of which of the  
 21 three you did?  
 22 A **No.**  
 23 MR. CANNON: Asked and answered.  
 24 BY MR. BALMER:  
 25 Q Are you currently certified as an Associate in

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1 Q When did you receive an adjusting license in  
 2 Nevada?  
 3 A **I don't know. I'll have to go back and look at**  
 4 **my records.**  
 5 Q Prior to going to work for Universal in  
 6 Sarasota, Florida, did you handle any Nevada claims for  
 7 any of the other insurance companies you worked with?  
 8 A **No.**  
 9 Q Would you have had a Nevada adjusting license  
 10 then prior to going to work for Universal?  
 11 A **No.**  
 12 Q And we know that you started working at  
 13 Universal on January 9, 2011?  
 14 A **Yes.**  
 15 Q So prior to 2011 you did not have a Nevada  
 16 adjusting license; is that true?  
 17 A **Correct.**  
 18 Q How long did it take you to obtain your Nevada  
 19 adjusting license following your hire at Universal?  
 20 A **I don't remember the exact date, but I received**  
 21 **most of my licenses in March and April of 2011.**  
 22 Q What was involved with getting a Nevada  
 23 adjusting license in -- likely in March or April of 2011?  
 24 A **Paying them money and applying.**  
 25 Q Was there a test?

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1 Claims?  
 2 A **Yes.**  
 3 Q When did you receive that certification?  
 4 A **Oh, it's been 15, 20 years ago, my best guess.**  
 5 Q Does that require any continuing education?  
 6 A **Not that I'm aware of.**  
 7 Q When is the last time you did any coursework  
 8 towards your Associate in Claims certification?  
 9 A **Not since I received that designation 15 or 20**  
 10 **years ago.**  
 11 Q Your resume indicates that you -- it says,  
 12 "Texas," comma, "Nevada," comma, "North and South  
 13 Carolina license." Does that go along with AIC?  
 14 A **That is the licenses I have on my resume.**  
 15 Q What license are you referring to?  
 16 A **The state adjusting license.**  
 17 Q The state what?  
 18 A **State adjusting license.**  
 19 Q Are you currently licensed in the state of  
 20 Nevada as an adjustor?  
 21 A **I'm not sure when it expired. I can't remember.**  
 22 Q Are you currently licensed in the state of  
 23 Nevada as an adjustor?  
 24 A **I don't know. It may have expired. I don't**  
 25 **remember.**

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1 A **No.**  
 2 Q How much was it?  
 3 A **I don't remember.**  
 4 Q Who paid the money, you or Universal?  
 5 A **Universal.**  
 6 Q Who was the issuing authority for the license in  
 7 Nevada?  
 8 A **Nevada's Department of Insurance.**  
 9 Q Did you fill out the application?  
 10 A **I probably did, yes.**  
 11 Q What information was sought on the application  
 12 for a Nevada adjusting license?  
 13 A **I think they just wanted to know -- it's a**  
 14 **reciprocal state, so they want to know my Florida license**  
 15 **and just basic information of my address and if I've ever**  
 16 **been charged with a felony, that type of thing.**  
 17 Q Have you ever been charged with a felony?  
 18 A **No.**  
 19 Q Have you ever been charged with a misdemeanor  
 20 involving dishonesty?  
 21 A **No.**  
 22 Q The first adjusting license that you had was a  
 23 Florida license?  
 24 A **Yes.**  
 25 Q It says on your resume, "Florida 620 all-lines

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1 adjustor license." What does that mean?  
 2 **A That means I can handle any type of insurance**  
 3 **claim.**  
 4 Q When did you receive that license?  
 5 **A In 2002.**  
 6 Q Did you hold any type of insurance adjusting  
 7 license during your work with insurance companies in  
 8 Illinois?  
 9 **A No.**  
 10 Q Is your Florida 620 all-lines adjustor license  
 11 still active?  
 12 **A Yes, it is.**  
 13 Q Is that the only of your adjusting licenses that  
 14 remains active?  
 15 **A No. My Texas, South Carolina, North Carolina**  
 16 **still remain active.**  
 17 Q Just Nevada has expired you believe?  
 18 **A I don't know. It could be in effect. I don't**  
 19 **know. It's a license that I'm not going to use, so I**  
 20 **don't pay any attention to it. If it expires it expires.**  
 21 Q Why is the Nevada license not one that you will  
 22 use?  
 23 **A Because I don't plan on handling any Nevada**  
 24 **claims in the future.**  
 25 Q Why?

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1 **A Because I'm domiciled and want to work out of**  
 2 **Florida.**  
 3 Q Well, weren't you domiciled and working out of  
 4 Florida at the time you were handling Nevada claims for  
 5 Universal?  
 6 **A Yes.**  
 7 Q So what's changed?  
 8 **A The outfit that I'm working for just wants me to**  
 9 **work in Florida.**  
 10 Q So why would you keep your Texas and North and  
 11 South Carolina licenses?  
 12 **A I'll let them expire probably.**  
 13 Q Has the Cathcart claim soured your taste for  
 14 handling claims in Nevada?  
 15 **A No.**  
 16 Q Just decided you don't want to handle any more  
 17 claims here; is that right?  
 18 MR. CANNON: I'll object; that mischaracterizes what  
 19 he's testified to.  
 20 Go ahead.  
 21 THE WITNESS: Say the question again.  
 22 MR. BALMER: Go ahead and read it back.  
 23 (The record was read as follows:  
 24 "QUESTION: Just decided you don't  
 25 want to handle any more claims here; is

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1 that right?")  
 2  
 3 THE WITNESS: No. It's just that I don't have any  
 4 need for a Nevada license anymore.  
 5 BY MR. BALMER:  
 6 Q The Florida adjustor license, how did you go  
 7 about getting that license?  
 8 **A You take a test.**  
 9 Q How long did the test last? How long did it  
 10 take?  
 11 **A It was probably an hour, hour and a half. I**  
 12 **don't remember. That was a long time ago.**  
 13 Q Did you pass the first time you took it?  
 14 **A Yes.**  
 15 Q Did you ever take any test for any of your other  
 16 licenses, those in Texas, North and South Carolina, and  
 17 Nevada?  
 18 **A No.**  
 19 Q So just the one- to one-and-a-half-hour test in  
 20 Florida is the only test you take, and the rest of the  
 21 licenses you've gotten through reciprocity?  
 22 **A Correct.**  
 23 Q And by paying a fee?  
 24 **A Correct.**  
 25 Q How did you demonstrate to the Nevada

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1 license-issuing authorities that you had any  
 2 understanding of Nevada insurance law?  
 3 **A There were no questions about specific Nevada**  
 4 **adjusting laws.**  
 5 Q So is it fair to say that you never had to  
 6 demonstrate to the Nevada insurance commission any  
 7 understanding of Nevada law relating to insurance claims?  
 8 **A I'd say that's correct.**  
 9 Q Did you ever have to demonstrate to the Nevada  
 10 issuing authorities for your adjusting license that you  
 11 had any understanding of the Nevada Administrative Codes  
 12 dealing with insurance claims?  
 13 **A No. It would be the same for South Carolina,**  
 14 **North Carolina and Texas.**  
 15 Q The Nevada Administrative Code is -- in terms of  
 16 claims handling -- is exactly the same as the other  
 17 states that you mentioned?  
 18 **A No.**  
 19 Q Have you ever read the Nevada Administrative  
 20 Codes concerning claims handling?  
 21 **A No.**  
 22 Q Let's talk about your insurance-work background.  
 23 I'm looking at your resume and I think you've got a copy  
 24 of it there in front of you as well and of course your  
 25 resume is attached as Exhibit No. 2.



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1 Who was your first insurance job?  
 2 **A That was with Farmers Insurance Group.**  
 3 Q That was in Illinois?  
 4 **A Correct.**  
 5 Q What was your position there?  
 6 **A I was called a fire specialist.**  
 7 Q What's a fire specialist?  
 8 **A That would handle large losses over 10,000,**  
 9 **large first-party property losses over 10,000.**  
 10 Q And you were handling those claims without any  
 11 Illinois adjusting license; is that right?  
 12 **A Correct.**  
 13 Q What type of training did Farmers provide to  
 14 you?  
 15 **A On-the-job training, ride-alongs, and then**  
 16 **formal training in Los Angeles.**  
 17 Q Formal training on what?  
 18 **A First-party property claims for residential and**  
 19 **commercial.**  
 20 Q Why did you leave Farmers?  
 21 **A I accepted a supervisor position at American**  
 22 **Family Insurance.**  
 23 Q What was your position at Farmers, just an  
 24 adjuster?  
 25 **A A fire specialist. They called it fire**

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1 **specialist or property specialist.**  
 2 Q Were you a field adjuster?  
 3 **A Yes.**  
 4 Q What other kind of adjusters are there?  
 5 **A There's inside adjusters, field adjusters, and**  
 6 **auto adjusters and liability adjusters.**  
 7 Q Was there anybody lower than you on the totem  
 8 pole at Farmers?  
 9 **A No.**  
 10 Q Were you ever promoted during your nine or ten  
 11 years at Farmers?  
 12 **A No.**  
 13 Q Why not?  
 14 **A I don't know.**  
 15 Q How did you come to be employed by American  
 16 Family?  
 17 **A I applied for their position.**  
 18 Q That was also in Peoria, Illinois?  
 19 **A Correct.**  
 20 Q So by moving to American Family, you got the  
 21 promotion that Farmers never gave to you?  
 22 **A I applied for the job for supervisor job and I**  
 23 **got it.**  
 24 Q Which was a higher level position than what you  
 25 were at with Farmers; is that true?

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1 **A Correct.**  
 2 Q What were your duties and responsibilities as  
 3 supervisor at American Family?  
 4 **A I was -- supervised several inside and field**  
 5 **adjustors, inside adjusters and field adjusters, audited**  
 6 **their claims, helped train them.**  
 7 Q When you were with Farmers, did you handle any  
 8 Nevada claims?  
 9 **A No.**  
 10 Q When you were with American Family, did you  
 11 handle any Nevada claims?  
 12 **A No.**  
 13 Q What were the types of claims that you handled  
 14 at American Family?  
 15 **A They were mostly homeowners and small-business**  
 16 **claims as well as rental-property claims, first party.**  
 17 Q What kind of training did American Family  
 18 provide to you?  
 19 **A Mostly on-the-job training, and I know I did go**  
 20 **to Madison a couple -- Madison, Wisconsin -- a couple**  
 21 **times for some training. I can't remember exactly what**  
 22 **it was.**  
 23 Q When you say you managed large and complex  
 24 first-party claims, define "large," please.  
 25 **A Back then it was probably any claim over 10,000.**

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1 Q Define your use of the term "complex," please.  
 2 **A Okay. It would probably be for ones that**  
 3 **required investigation as to the cause of the fire or**  
 4 **loss and also business-interruption losses.**  
 5 Q Concerning the investigation of cause of loss,  
 6 were you doing that yourself or you were just involved in  
 7 coordinating with experts and things?  
 8 **A Supervising, coordinating.**  
 9 Q In other words, you weren't going out to the  
 10 loss yourself and investigating. You were hiring people  
 11 to do that; right?  
 12 **A Correct.**  
 13 Q At American Family it says that you developed a  
 14 responsive organizational structure with clear  
 15 definitions of authority and responsibility. What does  
 16 that mean?  
 17 **A There was no defining instructions or -- for**  
 18 **each person's authority or their -- what areas they**  
 19 **handled, and I developed that.**  
 20 Q So at the time you started working for American  
 21 Family Insurance -- which is a big company, isn't it?  
 22 **A It is.**  
 23 Q -- it didn't have any sort of organizational  
 24 structure and definitions of authority and  
 25 responsibility?



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1 A It had an organizational structure, but the  
2 people I was supervising did not know exactly what areas  
3 they were supposed to be handling as far as territory or  
4 their responsibilities.

5 Q Why did you leave American Family?

6 A I accepted a manager's job at Great Central  
7 Insurance in Peoria.

8 Q How was that any different than the manager's  
9 job that you were just doing at American Family?

10 A It was working with commercial, 100 percent  
11 commercial claims, and I started out as a supervisor and  
12 became the director.

13 MR. BALMER: Why don't we take five minutes.

14 (Brief recess taken.)

15 BY MR. BALMER:

16 Q Sir, you understand, after our bathroom break,  
17 that you are still under oath?

18 A Yes.

19 Q And you're still required to tell the truth here  
20 today. You understand that?

21 A Yes.

22 Q Before our break we were talking about your move  
23 to Great Central Insurance Company after you left  
24 American Family, and you indicated that you started as a  
25 supervisor and ended as director?

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1 reporting for the state of Nevada?

2 A No.

3 Q At any of your jobs?

4 A At any of my jobs, correct.

5 Q You left Great American in -- I'm sorry. You  
6 left Great Central Insurance Company in 2002?

7 A Correct.

8 Q And you went to work for what company?

9 A FCCI Commercial Insurance Company.

10 Q Why did you move?

11 A Because I was called by a headhunter that told  
12 me about the job in Sarasota and I decided to move.

13 Q Was that your first time living outside of  
14 Illinois?

15 A Except when I was in the service, yes.

16 Q Where were you based in the service?

17 A San Antonio, Texas and Denver.

18 Q What branch?

19 A Air Force.

20 Q Were you honorably discharged?

21 A Yes.

22 Q What rank?

23 A E-5.

24 Q You enlisted?

25 A Yes.

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1 A Correct.

2 Q Director of what?

3 A Property-claims unit.

4 Q During your time at Great Central Insurance  
5 Company, you handled only commercial claims; is that  
6 true?

7 A Correct.

8 Q During your time at Great Central Insurance  
9 Company, did you handle any claims that were situate in  
10 the state of Nevada?

11 A No.

12 Q It indicates, "Responsible for all commercial  
13 first-party claims for 24 states." Those 24 states did  
14 not include Nevada; true?

15 A Correct.

16 Q Your resume indicates under Great Central  
17 Insurance Company that you were responsible for state  
18 compliance reporting, including California. What does  
19 that mean?

20 A They required an SIU -- what's the word --  
21 status that I was in charge of, making sure that we were  
22 compliant with the California SIU requirements.

23 Q SIU stands for?

24 A Special investigations unit.

25 Q Have you ever provided any state compliance

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1 Q Was that after college?

2 A 1969 when I was in college.

3 Q How long did you serve?

4 A Five years.

5 Q What was your specialty?

6 A Forward radioman, I guess you call them.

7 Q All right. So back to FCCI Commercial Insurance  
8 Company, you were contacted by a headhunter telling you  
9 of the opportunity. What did you do?

10 A I flew down there, applied for the job, and they  
11 hired me.

12 Q Did you apply for the job then you flew down or  
13 you flew down to apply for the job?

14 A No. I applied for the job through the  
15 headhunter and they arranged a meeting and they hired me  
16 soon after that.

17 Q What was your role at FCCI Commercial Insurance  
18 Company?

19 A I handled the first-party property unit.

20 Q Commercial?

21 A All commercial.

22 Q No residential at FCCI?

23 A None.

24 Q And no residential at Great Central Insurance  
25 Company?

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- 1 A Correct.
- 2 Q So for almost 20 years from 1993 to 2010 you
- 3 handled no residential claims?
- 4 A Correct.
- 5 Q Did your work at FCCI Commercial Insurance
- 6 Company involve claims that were situated in Nevada?
- 7 A No.
- 8 Q What were the positions then that you held at
- 9 FCCI Commercial Insurance?
- 10 A I started out as supervisor and later was
- 11 promoted to manager.
- 12 Q When you left in 2010 you were manager?
- 13 A Yes.
- 14 Q A manager of what?
- 15 A First-party property claims for the property
- 16 unit.
- 17 Q Why did you leave FCCI Commercial Insurance
- 18 Company in 2010?
- 19 A I was laid off.
- 20 Q Now, "laid off" can mean a couple different
- 21 things. Was there downsizing going on at FCCI or were
- 22 you fired?
- 23 A Downsizing.
- 24 Q What was the reason given for your termination?
- 25 A Laid off.

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- 1 Q "Laid off" carries with it the connotation that
- 2 it's temporary. Did you have the understanding that you
- 3 were being temporarily suspended from activities at the
- 4 company or did you understand that that was the end of
- 5 your time there?
- 6 A That was pretty much the end. I realized it was
- 7 the end of my time there along with about -- many other
- 8 people got laid off the same time.
- 9 Q Can you estimate for me the number of people
- 10 that were laid off when you were laid off?
- 11 A The day I was laid off, probably four people,
- 12 and after that, probably another five to six.
- 13 Q How big was the office in terms of number of
- 14 employees?
- 15 A As far as claims or as far as the whole company?
- 16 Q Let's talk claims.
- 17 A I have to think about that. It was probably 25
- 18 or so.
- 19 Q Were times just exceptionally good for FCCI
- 20 Commercial Insurance Company in terms of luck in having
- 21 no claims? How do you let go 8 people out of your 25 in
- 22 the claims department?
- 23 A It's a good question.
- 24 They specialized in work comp for contractors.
- 25 They specialized in contractors mainly in Florida; and I

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- 1 think you are aware of what happened to Florida in the
- 2 2007, 2008, that area. They lost -- their book of
- 3 business went from like 575 million in premiums down to
- 4 close to the high 300s.
- 5 Q So your role at FCCI Commercial Insurance
- 6 Company was handling first-party property claims for the
- 7 contractors that had insurance with the company?
- 8 A Yes.
- 9 Q In terms of first-party property claims, what
- 10 are we talking about, like cars? Work trucks?
- 11 A Trucks and also liability claims for -- property
- 12 liability claims like construction defect.
- 13 Q So you were a -- primarily a construction-defect
- 14 adjuster for FCCI Commercial Insurance?
- 15 A That wasn't the primary, but that was part of
- 16 it, yeah; and they would also have hurricanes go through
- 17 their buildings and packing plants, stuff like that.
- 18 Q How long did it take you to find another job
- 19 after you were laid off from FCCI?
- 20 A Took about -- let's see -- probably about four
- 21 or five months. I can't remember, to tell you the truth.
- 22 Somewhere around there.
- 23 Q Four to six months; is that fair?
- 24 A Four to six months, yeah. FCCI had provided a
- 25 nice severance package though.

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- 1 Q In terms of what, your nice severance package?
- 2 A Oh, they gave me about six months of pay, five,
- 3 six months.
- 4 Q If you would have found a job right away, it
- 5 would have been basically a six-month raise?
- 6 A That is correct.
- 7 Q Were you actively looking for a job?
- 8 A Part of the time.
- 9 Q Where did you ultimately land?
- 10 A At Universal North America.
- 11 Q Are you sure?
- 12 A Universal Insurance Company of North America.
- 13 Q Are you sure?
- 14 A Oh, I'm sorry. I did an interim with Provencher
- 15 & Company there, an independent adjusting firm.
- 16 Q How long were you at Provencher & Company?
- 17 A Roughly six to eight months.
- 18 Q Did you move up to Salem?
- 19 A I did temporarily.
- 20 Q Well, did you understand that that was going to
- 21 be a temporary move for you?
- 22 A Yes.
- 23 Q Why did you take a job in Salem, Massachusetts
- 24 when you were living down in Sarasota, Florida?
- 25 A Because that was a good temporary job.



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1 Q Did you understand that that was going to be  
2 temporary for you?  
3 **A Absolutely.**  
4 Q Did Provencher & Company understand that your  
5 work there was going to be temporary --  
6 **A Yes, they did.**  
7 Q -- when you took the job?  
8 **A Yes, they did.**  
9 Q You lived in Salem, Massachusetts for about six  
10 to eight months?  
11 **A Yeah, about five months I guess really. I said**  
12 **six there in the resume, but it's closer to five.**  
13 Q Why did you say six months in your resume when  
14 it's actually five months?  
15 **A It was somewhere between five and six. I just**  
16 **rounded it up.**  
17 Q Does it sound better if you do that?  
18 **A I don't know.**  
19 Q What was your role at Provencher & Company?  
20 **A I was a general adjuster.**  
21 Q What does that mean?  
22 **A That's a higher level adjuster that can handle**  
23 **just about anything from first-party property to**  
24 **liability claims.**  
25 Q It looks like you had another bullet point ready

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1 to go under Provencher & Company but there's nothing  
2 there. Was there something at that bullet point that you  
3 took out?  
4 **A That's just an error.**  
5 Q Just a carry-over bullet?  
6 **A Yes.**  
7 Q During your time at Provencher & Company, did  
8 you handle any Nevada claims?  
9 **A No.**  
10 Q At Provencher & Company did you handle any  
11 residential claims?  
12 **A Yes.**  
13 Q What type of residential claims did you handle?  
14 **A They were mostly rental property, large**  
15 **rental-property residential claims.**  
16 Q Meaning what?  
17 **A They would be anywhere from -- I supervised the**  
18 **people that were handling the claims. I didn't actually**  
19 **handle them myself.**  
20 Q What's the difference between supervising others  
21 who are handling claims and actually handling a claim?  
22 What's the difference?  
23 **A I would not go out to the sites. The field**  
24 **people would go out to the sites and then they'd send in**  
25 **the reports and I'd approve them or disapprove them or**

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1 **change them and review them; and if they needed to go up**  
2 **higher, I would review them so they could get authority**  
3 **to pay for a certain level.**  
4 Q Up to 2011 is it true that the last time you had  
5 ever really done a first-party residential loss adjusting  
6 was 1993 when you were with American Family Insurance?  
7 **A That's correct. Now, I would get involved on a**  
8 **commercial basis with residential losses.**  
9 Q What does that mean?  
10 **A Well, we insure a lot -- at FCCI there were a**  
11 **lot of contractors that were insured and they would**  
12 **damage a residential home, so I would be involved in**  
13 **supervising those claims.**  
14 Q That's a third-party claim?  
15 **A Third-party claim, that's correct.**  
16 Q In terms of first-party residential claims, you  
17 had not served as an adjuster on one of those claims  
18 since 1993?  
19 **A Correct.**  
20 Q Now, it looks like, according to your resume,  
21 that you stopped working for Provencher & Company in  
22 2011. Is that true?  
23 **A Correct.**  
24 Q You next started with another insurance company  
25 in 2012. Was there a time where you were unemployed

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1 between Provencher and Universal?  
2 **A Yes.**  
3 Q How long were you unemployed between Provencher  
4 and Universal?  
5 **A Probably about two or three months.**  
6 Q Why were you unemployed during that period of  
7 time?  
8 **A I was seeking another job with an insurance**  
9 **company as a staff person.**  
10 Q I don't understand what you mean by that.  
11 So you were with Provencher & Company. You took  
12 that as a -- basically a stopgap job, did you not,  
13 between being laid off at FCCI and finding something  
14 else?  
15 **A Correct.**  
16 Q So were you actively looking for another  
17 insurance job from the time that you were laid off of  
18 FCCI and the time -- in 2010 -- and the time that you  
19 landed with Universal in 2012?  
20 **A Some of the time, yeah.**  
21 Q About two years?  
22 **A Some of the time, yeah.**  
23 Q Were insurance companies just not hiring during  
24 that period of time or was there something about your  
25 qualifications that you believe made it difficult for you



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1 to find a job?

2 **A I don't know. Ask me that again.**

3 MR. BALMER: Can you read it back. I don't think I

4 could.

5 THE WITNESS: Okay.

6 (The record was read as follows:

7 "QUESTION: Were insurance

8 companies just not hiring during that

9 period of time or was there something

10 about your qualifications that you

11 believe made it difficult for you to

12 find a job?")

13

14 THE WITNESS: I don't know about if insurance

15 companies were hiring during that time or not. I wasn't

16 actively looking that whole time because I was involved

17 with Provencher for, you know, five or six months. So I

18 was pretty satisfied with what I was doing with them.

19 BY MR. BALMER:

20 Q Why did you stop working for Provencher?

21 **A Because my assignment in -- that they had me,**

22 **that temporary assignment was over and I wanted to get a**

23 **full-time job.**

24 Q So your time with Provencher, were you working

25 basically part time?

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1 **A No. I was full time, but it was a temporary**

2 **assignment.**

3 Q Was somebody out like on maternity leave or

4 something?

5 **A No.**

6 Q What was the nature of the temporary assignment?

7 **A It was due to the ice storms in New England.**

8 **They needed extra help, and then Irene -- I think it was**

9 **Irene -- came along. I could have my names mixed up with**

10 **the hurricane, and they needed help with that too.**

11 Q So --

12 **A I was really only supposed to be there about 30**

13 **to 60 days and they extended it.**

14 Q So how much of the time, if you can estimate for

15 me in months, between the time you were laid off at FCCI

16 Commercial Insurance Company and the time that you landed

17 at Universal North America, were you actively looking for

18 a job?

19 **A Probably five to six months I would guess.**

20 Q How did you support yourself during that time?

21 **A Well, like I said, from FCCI they gave me a very**

22 **nice severance package and then I was working for**

23 **Provencher during that time.**

24 Q How did you come upon a job at Universal North

25 America?

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1 **A I saw it online and applied for it.**

2 Q Where did you see it online?

3 **A I don't remember. Probably -- there's a**

4 **Great -- there's a Web site called Great Insurance Jobs.**

5 Q Did that require a membership by you?

6 **A No.**

7 Q What about the Universal North America

8 opportunity stood out to you on that Web site other than

9 maybe being located in Sarasota, Florida?

10 **A Yeah. Well, I certainly liked the idea of**

11 **staying in Sarasota and the office was three miles from**

12 **my home.**

13 Q Was it the short commute time that made the job

14 at Universal North America attractive to you?

15 **A It was part of it.**

16 Q What was the other part of it?

17 **A It was a position that I knew I could handle**

18 **very well for them and would be good for them and good**

19 **for me.**

20 Q What was the position?

21 **A Property unit manager.**

22 Q What is a property unit manager at Universal

23 North America?

24 **A Supervises the inside adjustors and also**

25 **independents.**

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1 Q Independent what?

2 **A Independent adjustors.**

3 Q What was your hire date at Universal North

4 America?

5 **A January 9th, 2012.**

6 Q What was your starting position?

7 **A E property unit manager.**

8 Q Say that again.

9 **A Property unit manager.**

10 Q Did the property unit that you worked in handle

11 first-party homeowner claims?

12 **A Yes, it did.**

13 Q Did the property unit that you worked in handle

14 commercial claims?

15 **A Yes.**

16 Q Can you estimate for me, please, in your time at

17 Universal North America, the percentage of your time

18 spent on first-party homeowner claims versus commercial

19 claims?

20 **A I would guess that 95 percent was homeowners and**

21 **5 percent was commercial.**

22 Q And was the breakdown of 95 percent homeowners,

23 5 percent commercial -- did that remain the same or

24 similar throughout your three or so years with Universal?

25 **A Correct.**

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1 Q When you left Universal, what was your position?

2 A **Property unit manager.**

3 Q So from the time that you were hired in 2012 and  
4 the time that you left in 2015, you had not seen any sort  
5 of a promotion; is that true?

6 A **Correct.**

7 Q By the time that you were hired in 2012 by  
8 Universal, the last job wherein you worked on adjusting  
9 first-party residential claims was nearly 20 years before  
10 at American Family; is that right?

11 MR. CANNON: Mischaracterizes, objection.

12 Go ahead.

13 THE WITNESS: I handled residential claims up until  
14 1993, from 1981 to 1993, about 12 years.

15 BY MR. BALMER:

16 Q And then from 1993 to the time that you were  
17 hired in 2012, you did not handle first-party residential  
18 claims; is that true?

19 A **That's true.**

20 Q So although you'd been working in insurance  
21 since 1990 -- I'm sorry -- since 1981, by the time you  
22 were hired at Universal North America in 2012, only 12 of  
23 those adjusting years were done on first-party  
24 residential claims; true?

25 A **I think that's what I just answered, yes.**

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1 Q Let's talk about your duties at Universal North  
2 America. You've got four bullet points listed here on  
3 your resume. It said that you're responsible for timely  
4 and effective handling of all assigned homeowner and  
5 commercial property claims in the technical property  
6 unit. Is that true?

7 A **Correct.**

8 Q What is a technical property unit?

9 A **The technical property unit would get the larger  
10 claims.**

11 Q What does the word "technical" mean?

12 A **Oh, it's ones that would involve a person, an  
13 examiner, that would have superior knowledge over a  
14 regular adjuster, I guess for lack of a better word.**

15 Q You were just a regular adjuster; right?

16 A **I was a property unit manager.**

17 Q But you were not an examiner?

18 A **No.**

19 Q You indicate, "responsible for timely handling  
20 of all assigned homeowner property claims." What does  
21 that mean, "timely"?

22 A **That they are handled as efficiently and as  
23 quickly as possible and concluded as quickly as possible.**

24 Q In that same bullet point you indicate that you  
25 were responsible for effective handling of homeowner

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1 property claims. What does the word "effective" mean?

2 A **Concluding the claim as quickly and as fairly as  
3 possible.**

4 Q In general what's the job of an adjuster at an  
5 insurance company?

6 A **To receive a claim, determine coverage, pay out  
7 and/or deny the claim as quickly as possible.**

8 Q How were adjusters at Universal evaluated on  
9 their performance during the time that you were there?

10 A **We would do a performance review once a year and  
11 then we'd do audits on a quarterly basis and present  
12 those audit results to the adjuster in a session.**

13 Q And what?

14 A **In a session.**

15 Q What does that mean?

16 A **A meeting.**

17 Q What were the things that you looked for in the  
18 performance review of an adjuster?

19 A **If they made quick contact with the insured, if  
20 they made followup -- timely follow-up calls to the  
21 insured or other parties involved in the claim; and if  
22 they paid the claim, once they had the information in,  
23 did they pay it promptly; and if there was a problem with  
24 the file, did they escalate it to the unit manager or --  
25 that's just to give a few examples.**

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1 Q How were adjusters evaluated on claim payments?

2 A **If they were correctly paid, not overpaid or  
3 underpaid, and if they're paid timely.**

4 Q Who determined whether a claim was overpaid or  
5 underpaid?

6 A **That would be through an audit by me or some  
7 other unit manager.**

8 Q Who audited your claims work?

9 A **No one audited my claims work. I was supervised  
10 by Otto and he would review the claim periodically.**

11 Q So whereas adjusters had you looking over their  
12 shoulder regularly in the payment of claims, you did not  
13 have somebody looking over your shoulder regularly but  
14 only at times by Otto; is that right?

15 A **Otto would over -- supervise my files, yes.**

16 Q But Otto didn't supervise your files the same  
17 way you supervised the adjusters; is that true?

18 A **That's correct.**

19 Q In fact Otto spent a lot less time supervising  
20 your files than you did the adjusters below you; is that  
21 true?

22 A **I'd say that's correct.**

23 Q And it's your testimony that your claims were  
24 not the subject of audits the same as the adjusters below  
25 you. Is that right?



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1 A That would be correct.  
 2 Q Did you ever have a performance of your -- I'm  
 3 sorry -- an evaluation of your performance in writing  
 4 concerning your claims handling --  
 5 A Yes.  
 6 Q -- at Universal?  
 7 A Yes.  
 8 Q And who did that performance review?  
 9 A It would be the director of claims.  
 10 Q Who was that?  
 11 A It would have been, when he was there, Rich  
 12 Hanlon or Otto.  
 13 Q Were those performance reviews in writing?  
 14 A Yes.  
 15 Q When you were auditing adjustors' payments, how  
 16 did you determine whether the adjustor over- or underpaid  
 17 a claim?  
 18 A Well, you look at the estimate provided by the  
 19 independent adjustor to see if there's any errors on the  
 20 estimate, if they had something on there twice or had the  
 21 improper scope of loss or something along that nature.  
 22 Q Is Universal publicly traded?  
 23 A No.  
 24 Q Did you ever have an opportunity to see a  
 25 Profit & Loss for Universal while you were there?

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1 A Did I ever see the Profit & Loss Statements?  
 2 No.  
 3 Q Describe for me how Universal was configured on  
 4 a corporate basis. Do you understand what I'm asking?  
 5 Give me the hierarchy of how it was set up.  
 6 A It's an entity owned by a Puerto Rican family  
 7 and this is their -- they have an insurance company in  
 8 Puerto Rico and they expanded to the United States by  
 9 starting Universal Insurance Company of North America.  
 10 Q What's the name of the Puerto Rican insurance  
 11 company?  
 12 A I forgot.  
 13 Q So it's privately owned, the insurance company?  
 14 A Yes.  
 15 Q So all the profits then flow to the Puerto Rican  
 16 family that owns it?  
 17 A Correct.  
 18 Q Did you engage in any profit sharing while you  
 19 were there?  
 20 A No.  
 21 Q Did you receive any, or have the opportunity to  
 22 receive any, performance bonuses while you were there?  
 23 A Yes.  
 24 Q Tell me about your performance bonus, how that  
 25 worked.

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1 A We get a performance bonus twice a year.  
 2 Q What is the basis of the performance bonus?  
 3 A It was based on your performance and the  
 4 company's profitability.  
 5 Q Would you agree that the company's profitability  
 6 is a function of premiums collected minus claims paid  
 7 minus overhead?  
 8 A Correct.  
 9 Q Would you agree that the less Universal paid out  
 10 on claims, the higher the company's profitability?  
 11 MR. CANNON: Objection; incomplete hypothetical,  
 12 calls for speculation.  
 13 You can answer.  
 14 THE WITNESS: There's so many factors that factor  
 15 into the profitability of a company.  
 16 BY MR. BALMER:  
 17 Q Would you agree that the amount paid out in  
 18 claims is a factor in profitability?  
 19 A A small part, yes, a part of it.  
 20 Q So if the amount of claims paid is a part of  
 21 profitability, you would agree with me that the less  
 22 amounts paid on claims, the more profitable the company  
 23 will be?  
 24 MR. CANNON: Same objection; incomplete hypothetical,  
 25 lack of foundation, calls for a legal conclusion.

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1 Go ahead.  
 2 THE WITNESS: There's so many factors that are  
 3 involved. It's the financial return on our investments  
 4 that we have in our cash reserves. There's -- if we're  
 5 getting the proper amount of premium on our underwriting  
 6 and our overhead as far as employees, and there's just a  
 7 huge amount of factors that determine the profitability  
 8 of the company. Yes, claims is part of that company --  
 9 part of that profitability or loss.  
 10 BY MR. BALMER:  
 11 Q So the less money paid out on claims impacts  
 12 positively the company's bottom line; true?  
 13 A I'd say that's true.  
 14 Q And so what I said was true, that the less paid  
 15 out in claims, the more profitable the company is?  
 16 MR. CANNON: Incomplete hypothetical, same objection.  
 17 THE WITNESS: I don't agree with that. There's so  
 18 many factors that could determine what makes a company  
 19 profitable or unprofitable. You could have a year where  
 20 they paid out more or less, but it doesn't necessarily  
 21 have an impact on the profitability of the company. It  
 22 may or may not.  
 23 BY MR. BALMER:  
 24 Q So what portion of the company's profitability  
 25 would you receive in terms of your biannual performance



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1 bonus? And maybe that's not the right word. Twice a  
2 year.

3 **A I'm thinking I misspoke. It was -- we received**  
4 **a bonus once a year and then we got a raise once a year.**  
5 **I was thinking -- I was incorrect. It should be we got a**  
6 **bonus once a year and a raise once a year.**

7 Q Okay. So the performance bonus you indicated  
8 was based in part on the company's profitability; right?

9 **A Yes.**

10 Q And part of the profitability is determined by  
11 claims payment; true?

12 MR. CANNON: Same objection.

13 Go ahead.

14 THE WITNESS: No. Again it's what it cost -- if they  
15 made a favorable reinsurance, you know, acquisition of  
16 reinsurance could be a huge factor in profitability of  
17 the company.

18 BY MR. BALMER:

19 Q Let's talk about it in this way: You've got a  
20 wallet. Do you have a wallet?

21 **A Yes.**

22 Q You got a lot of bills, don't you, house  
23 payments, maybe car payments, insurance payments?

24 **A Uh-huh.**

25 Q Food bills; right? You've got all these bills

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1 company reaches into its wallet to pull out \$20 on a  
2 claim instead of 10, it leaves the insurance company with  
3 less money with which to pay expenses and perhaps  
4 contribute to savings; true?

5 **A True.**

6 Q Did you ever receive a performance bonus?

7 **A Yes.**

8 Q Did you receive a performance bonus each year  
9 you were at Universal?

10 **A Correct.**

11 Q Was Universal profitable each year you worked  
12 there?

13 **A I believe so.**

14 Q And that means that the Puerto Rican family that  
15 owns Universal made money; true?

16 **A True.**

17 Q How was the amount of the performance bonus  
18 determined?

19 **A I don't know. It was kind of arbitrary.**

20 Q Who decided who got what bonus?

21 **A The managers of the people.**

22 Q Weren't you a manager?

23 **A Yes.**

24 Q So would you characterize your determination of  
25 the people below you, how much they got in performance

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1 for yourself; true?

2 **A Yes.**

3 Q And you've got a finite amount of money in your  
4 wallet, do you not?

5 **A Correct.**

6 Q If you paid \$10 out of your wallet for some  
7 expense, would you agree with me that you now have \$10  
8 less in your wallet to apply to your other bills or even  
9 to your savings?

10 **A Yes.**

11 Q Same example: Let's say you pull \$20 out of  
12 your wallet to pay some expense. Would you agree with me  
13 that, as it relates to pulling out just \$10, pulling out  
14 \$20 leaves you with even less money in your wallet to pay  
15 for expenses and perhaps even contribute to savings?

16 **A Correct.**

17 Q When the insurance company pays claims, where  
18 does that money come from, the insurance company's  
19 wallet?

20 **A The premiums collected.**

21 Q And the premiums collected are money that the  
22 insurance company has in its figurative wallet; true?

23 **A Right. It comes from premiums and also interest**  
24 **earned on their assets.**

25 Q And so like in our example, when the insurance

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1 bonus, as arbitrary?

2 **A It was based -- I'm sorry, I shouldn't say**  
3 **arbitrary. We were given a pool of money and we gave it**  
4 **out as to who was performing better or worse.**

5 Q And did you hand out the bigger bonuses to the  
6 better company employees?

7 **A Correct.**

8 Q Who determined the amount of bonus pool to which  
9 you were able to draw from?

10 **A I don't know. That was above me.**

11 Q So were people above you given a pool of money  
12 to trickle down to people in your position?

13 **A I am not sure how they did it.**

14 Q So the more profitable the company, the bigger  
15 your bonus; true?

16 MR. CANNON: Objection; same objection as before,  
17 incomplete hypothetical, calls for speculation on the  
18 part of this witness.

19 Go ahead.

20 THE WITNESS: As far as I understood it, it was based  
21 on the profitability and your performance.

22 BY MR. BALMER:

23 Q So the more profitable the company was, the  
24 better bonus that you had the opportunity to receive;  
25 true?